

To his Grace His Majesties high Commis-  
sioner, and the right honourable Estates  
of Parliament.

Archibald Earl of Argyle, as also Colin  
Campbell of Blythwood, Robert  
Campbell of Silvercraigs, and Colin  
Campbell late Baillie of Inverary,  
for themselves, and in Name of the  
Creditors of the deceased Marquiss of Ar-  
gyle Grand-Father to the said Earl.

Humbly Sheweth,

That where the deceased Archibald Marquiss of Argyle was in the year 1661  
Arraigned, Condemned, Forefeited, and put to Death by the Parlia-  
ment then sitting, for no greater Crime than a few Deeds of Compliance  
with the English Usurpers, after the whole Nation had submitted, and in a  
manner acknowledged their Usurpation, and were also involved in the same,  
or the like Deeds; So that even the most part of the Members of the said Par-  
liament, were in the same or no better case: Whereby it is manifest, that  
a greater hardship upon such a person, and upon such an Ancient, Noble and  
Loyal Family, which he had the honour to represent, can hardly be instan-  
ced: And yet not only was the said Sentence pronounced and severely exe-  
cute upon his person, but thereafter his whole Estate was gifted and disposed  
upon to Donators; And tho' throw his Majesties then Clemency, some Con-  
sideration was had of the late Earl Son to the Marquiss, and of the real Cre-  
ditors and others to whom he was engaged, yet the great part of the Marquiss  
his Estate, viz. his Rights and Interests in the Estate of Huntly was gifted to  
the Marquiss of Huntly now Duke of Gordon, and Earl of Aboyne, without  
any Burden of the Debt of that Family, either of what was due to the Marquiss  
of Argyle himself, or of what he had been obliged to satisfy and acquire Right  
to, by taking the said Debt upon himself; but on the contrary all these Cre-  
ditors of the Marquiss of Huntly, who had become Creditors to the Marquiss  
of Argyle in manner foresaid, were utterly frustrat and cut off, save that per-  
haps a few of them that had got real Securities from the Marquiss of Argyle  
out of his own Estate, or to whom the late Earl of Argyle his Son had become  
personally engaged, were left a Burden upon the Estate of Argyle.

By all which, it is manifest, that not only your Petitioner the now Earl of  
Argyle, but also the foresaid Creditors that coucur with him, have good and  
undoubted Right to quarrel the foresaid Sentence of Forefaulture, and to ob-  
tain the same to be Reduced, Rescinded, and Declared void *ex iustitia & ab  
initio*, as given and pronounced to their most enorm hurt and lesion; speci-  
ally seeing that by the 18 Act of the second Session of this current parliament,  
Intituled Act rescinding Forfeitures, it is Declared, that the foresaid Act is  
without prejudice of any who have been forefeited at any time in the Reign of King  
Ch. the 2d. to bring in their processes or particular Acts before the Parliament;  
and



nd to crave and receive Redresses according to the merit of their Causes. As likewise, that not only the said Marquiss of Argyle was Executed, and is dead, and no more in need or capacity for a Remission, and the Earl your Petitioner duly rehabilitat, but that the said Creditors did protest before the passing of the said Doom of Forefeiture against the Marquiss, that the same might be of no prejudice to their respective Debts and Interests: And that this Reduction is now craved before this high and Sovereign Court of Parliament, and that as well for acquitting the Memory of the deceased Marquiss of the Crimes then Libelled against him, as for rescinding and making void the foresaid Sentence of Forefeiture, and all that hath thereon ensued; Likeas in effect throw the most righteous Providence of GOD, it hath so happened that the foresaid Sentence is not more groundless than the whole Proces, and all the steps thereof are informal, illegal and unwarrantable, as may plainly appear from these Reasons of Reduction following, and not to mention Exceptions of less moment, such as that the very Execution of the Inditement of Treason exhibit against the deceased Marquiss, doth not bear to have been performed by a Herald or Pursivant with Coat displayed and Sound of Trumpet as the Law and Act of Parliament expressly appoint,

Our first Reason of Reduction is, that there was no Warrant for giving of the said Inditement, nor was the Inditement itself signed by his Majesties Advocat, albeit this be the constant and necessary Form in all Inditements of this Nature.

2. Throw the whole Proces there is not an subscribed Interloquitor or Signature of Proces, either by the Lord Chancellor or President of Parliament; but all that appears to have been done is, that upon the Margin of the Marquiss his Defences, there are a few unsubscribed Signatures set down by a Clerk or his Servants.

3. There was no Execution against the Witnesses, so that in Law they are all to be held Spontaneous and insufficient.

4. The Depositions of these Witnesses such as they are, could never make a probative Evidence; Because, first there is not one of them subscribed by both the Witnes, deponing and the Lord Chancellor or president, but some of them are subscribed only by the Deponent, and others only by the President; But yet do not bear that the Deponent could not Writ: And 2<sup>ly</sup>, All or the most part of these Depositions want the necessary and only astringent Clause in an Oath, viz. *So help me God, or as I shall answer to God.*

5. There were six Letters produced against the Marquiss, four of them said to be his own hand, and two of them by other hands, but subscribed by him, and there is a Minut of proces, that they were made use of and instained as proofs, and yet there is no Signature bearing that either they were proven to be the Marquisses Letters, or that he himself had owned them as such: And all that appears, was, that upon one of the Letters said to be writ by the Marquiss, a Clerk or his Servant hath marked these Words, *This Letter is acknowledged by the Marquiss of Argyle*, but neither is this acknowledgment signed by the Marquiss, nor are any of these six Letters marked as produced either by the president or Clerk, as is the ordinary and necessary practice in such cases, and was so practised in the late Earl of Argyles proces before the same Parliament, wherein the Earls Letter to my Lord Duffus produced against him, was marked by order of Parliament, both by the Earl and by the Lord Chancellor subscribing the Signature of his acknowledgement, and without such marking it is most certain, no Writ produced in any such proces can be probative. 6<sup>ly</sup>.



6. There is no subscribed Sentence, nor subscribed Warrant for any Sentence, nor indeed was there ever any such Sentence or Warrant, which is so substantial a defect, that it may justly be wondered how this Proces came to be concluded, and much more that any Execution followed upon it ; For all that ever was in the Proces, is only the Scroll of a Sentence, very ill Written, by an unknown Hand, in three or four Sheets, not so much as ever battered or joined, far less Subscribed : and which is yet more wonderful, that tho the Marquis was Execute to Death, yet never any Dead Warrant was or could be found either in the Records of Parliament, or of the Town of *Edinburgh*, the true reason whereof was, that the Marquis was brought from the Castle of *Edinburgh*, where he was Prisoner, and sifted before the Parliament on the *Thursday*, where the foresaid six Letters were by way of Surprise produced against him, and Sentence almost given upon them, without allowing him to see, but he having obtained to see till the next day, he was from the Bar sent to the Tolbooth of *Edinburgh* ; and then being brought to the Bar the next day, being *Friday*, without more ado the Sentence and Doom of Death and Forefaulture was pronounced against him, to be execute on the *Munday* thereafter, being the 27 of *May*, without farther delay : Whereupon the said Sentence was actually execute without any subscribed Sentence or Warrant ; and the pre ended Sentence being long, and not written out before his Death, came thereby never to be signed, to the just astonishment of all thinking men, since so great a man fell without so much as a subscribed Warrant : Whereas in the same Session of Parliament, the Sentence of Forefaulture against Mr. *James Guthrie* and Captain *Govan*, who were execute the first of *June* thereafter, are both found to be duly Subscribed.

7. The foresaid Doom and Sentence of Forefaulture ought to be reduced, and the Marquess his Memory for ever acquit of the Crimes charged against him ; Because it is most certain, that albeit a few Deeds of compliance with the *English Usurpers* were proven against him, yet as the said Compliance was epidemick and general and circumstantiated as said is, it might well have become the sovereign Justice and Equity of a Parliament, to have at least mitigated the punishment.

But that which is yet of greater Weight and Moment in this matter is, that it is very certain and evident even from the Scroll of the Sentence, that the great, if not the only cause of his Death and Forefaulture, were the first ten Articles of his Libel, of matters that had hapned before the *English Usurpation*, which yet were really such as even that Parliament could not make Crimes, but did only find to be Aggravations ; Whereas it is evident as the Sun-light, that the Defences given in by the Marquess, upon several Acts of Ratifications, Indemnity and Oblivion, past by King and Parliament, as to all these matters, did so fully assilzie him from any colour of Crime, in all that was or could be proven of these particulars, that they could not be reckoned or judged so much as Aggravations, as the Libel it self and the Defences made against the same do plainly testifie.

And lastly, The foresaid Doom and Sentence ought to be reduced, because the same, and all the pretended Grounds and Warrants of it are forg'd, fabricat and feigned, and offered to be improven as such *omni modo pro ut de jure*.

Seing then that we have so clear a Title and Interest, and such pregnant and evident Grounds and Reasons for reducing the foresaid Sentence and  
Doom



Doom of Forefaulture, with all that has ensued thereon, and that the same are farther fortified by the Act *Salvo Jure* past in that same Session of Parliament.

Herefore we beseech your Grace and Lordships, to grant us Warrant for raising our Reduction and Improbation of the same, and for citeing the Duke of Gordon and the Earl of Aboyn Donators, and also the Officers of State for his Majesties Interest, with the Clerk Register or his Deput, and the Clerks of Parliament, to produce the foresaid Sentence and Doom, and haill Grounds and Warrants of the same, with all other persons having Interest, personally, or at their Dwelling-houses, and at the Mercat-crosses upon fifteen days warning, as effeirs, to hear and see the foresaid Sentence and Doom of Forefaulture, haill Grounds and Warrants thereof, with all that has followed, or may follow thereupon, reduced, rescinded, cassed, annulled, and made void *ex justitia & ab initio*; As also, the said Marquess his Memory acquit of the Crimes charged, and the same, with his Blood, Honour, Title, Dignity and Posterity restored, rehabilitat and redintegrat, for the Grounds and Reasons foresaid; as likeways his Heirs & Successors restored and reponed to his Rights and Possessions, as if the foresaid Process of Forefaulture had never been intended, or any Doom or Sentence pronounced thereupon, or else to shew a reasonable cause, and for summonding Witnesses in communi forma as effeirs. And your Grace and Lordships Petitioners shall ever pray.

## Bond of Acknowledgement *Lewis* Marquiss of *Huntly*, to the Marquiss of *Argyle*

WE *Lewis* Marquiss of *Huntly*, &c. considering that *Archibald* Marquiss of *Argile* our Uncle, has Right by Apprysings and otherways to the Estate and Living of *Huntly*, viz. the Land and Lordships of *Strathbogy*, the Lands and Lordship of *Enzie*, the Lands and Lordship of *Badanoch*, the Lands of *Lochaber* and others, which pertained to the late Marquiss of *Huntly* our Father, and to the umquhile first Marquiss of *Huntly* our Goodsir, and that we brook the House and Lands of *Strathbogy* by Tolleration frae our said Uncle, and also did for his behove possess the House of *Boig* and Lordship of *Enzie* and others, which now also we brook by his Tolleration, and now after Compt and Reckoning this day with the said Marquiss of *Argile* our Uncle, we find that the haill Sums, Principals and Annualrents, justly adebted and restand owing to the said Marquiss of *Argile*, by vertue of the Bonds, Obligations, Infeftments of Relief, Decreets of Apprysings and Infeftments following thereupon, made by, and deduced against our saids umquhile Father and Goodsir, and umquhile *George* Lord *Gordon*, and *James* Viscount of *Aboyn* our Brethren, or either of them, shown and produced to us, and whereunto the said Marquiss of *Argile* has Right, extending in all to the Sum of three hundred thirty seven thousand twenty eight Pounds, good and usual Money of *Scotland*, after defalcation of all the said Marquiss of *Argile*'s Intromissions with the Rents and Duties of all the Lands, Lordships and others, particularly and generally above-written, preceeding this Date: and it being agreeable to Equity



quity and Reason, that the said Marquiss of Argyle should have real payment of the foresaid Sum. Therefore we are content, and consents that he Sell and Dispose upon als meikle of the readiest of the Lands, Lordships, and others foresaids, Heretably and Irredeemably, as will satisfie and pay the foresaid Sum, in haill or in part, as he can find Merchants, the samen being sold at the ordinar Rate of the Countrey, where the Lands to be sold lyes at the least for no less than eighteen hundred Merks Scots Mony for each Chalder of Victual, and the like price, for each an hundred Merks of Silver Rent: and to the effect, that till Bargains be gotten made, the said Marquiss of Argyle may be sure of the Annualrents of the Sum foresaid. We are content not only, that he retain the possession of the said Lordship of *Badenoch* and Lands in *Lochaber*, but also that he retain possession of the saids Lands and Lordships of *Strathbogy* and *Enzie*, and others foresaids, by appointing Chamberlains for intronetting with the Rents of the foresaids Lordships of *Strathbogy* and *Enzie*, and retain so much thereof, as with the Rent of *Badenoch* and *Lochaber*, will make out to him the Annualrent of the said Sum of three hundred thirty seven thou and twenty eight pounds Mony foresaid yearly, the saids Chamberlains always making payment of the Remanent of the foresaids Rents to us, as having Right to meddle therewith, by our Uncle his Tolleration foresaid, but pre- judice always of the Clause of Selling above written for payment of the fore- said Sum, as said is. to the whilk Alienations and Dispositions to be made by the said Marquiss of Argyle, in manner, and to the effect foresaid, we bind and oblige us our Heirs and Successors, to subscribe Consenters, whensoever we shal happen to be required or desired thereto, either by the said Marquiss of Argyle himself, or by the persons obtainers of the saids Dispositions fra him, and we promise, that we shal cause a sufficient number of our responsal Friends become obliged Cautioners with us, that the said Marquiss of Argyle shal be kept in the peaceable Possession of the Lands and others foresaids, till he be really satisfied and payed of all the Sums of Mony principal and Annualrents above written, in manner foresaid, and we declare that thir presents shal no ways be hurtful nor prejudicial to the said Marquiss of Argyle anent his Right foresaid, nor anent getting of Relief out of the said Estate of *Huntly*, where- unto he has Right as said is, of such other Debts as are owing by our saids um- quhile Father and Goodsir, whilks the said Marquiss of Argyle has engaged himself to see satisfied: And for the more security, we are content and con- sents, that thir presents be Insert and Registrat in the Court Books of Justice, or any other Judicatory within this Nation, to have the strength of a De- creet of the Judges thereof respectively interponed thereto, that Letters and Executorials of Horning on an simple Charge of ten Days warning and o- thers necessary may pass hereupon, and for that effect we constitute

our Procurators pro-  
mitten, to hold firm and stable, &c. In witness whereof, we have subscrib-  
ed thir presents (written by *James Campbell*) with our hand at *Finlarig*, the  
fifth day of *July*, one thousand six hundred and fifty three years, before thir  
Witnesses, Lord *Charles Gordon* our Brother German, Sir *John Innes*, Sir *Ro-*  
*bert Innes* of *Bavenie*, *George Grant* Brother German to the Laird of *Grant*,  
*Patrick Innes* of *Mest*, and the said *James Campbell* Writer hereof. Sic sub-  
scribitur

HUNTLY.

*Charles Gordon* Witness, *John Innes* Witness, *Robert Innes* Witness, *George*  
*Grant* Witness, *Patrick Innes* Witness, *James Campbell* Witness.